

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

_____		)
UNITED STATES OF AMERICA,		)
and the STATE OF ILLINOIS,		)
		)
Plaintiffs,		)
		)
v.		)
		)
CRANE COMPOSITES, INC., formerly		)
known as KEMLITE COMPANY, INC.,		)
		)
Defendant.		)
_____		)

FILED: AUGUST 20, 2008  
CIVIL ACTION NO.: 08CV4735  
JUDGE ZAGEL  
MAGISTRATE JUDGE COLE  
BR

**COMPLAINT**

The United States of America, by and through its attorneys, by authority of the Attorney General of the United States and acting at the request and on behalf of the Administrator of the United States Environmental Protection Agency (“U.S. EPA”); and the State of Illinois (“Illinois”), by and through Lisa Madigan, Attorney General of the State of Illinois on behalf of the People of the State of Illinois on her own motion and upon the request of the Illinois Environmental Protection Agency (“Illinois EPA”), allege as follows:

NATURE OF ACTION

1. This is a civil action pursuant to Section 113(b) of the Clean Air Act (“CAA” or “Act”), 42 U.S.C. § 7413(b), against Defendant Crane Composites, Inc., formerly known as Kemlite Company, Inc. (“Crane Composites”), for injunctive relief and the assessment of civil penalties for violations of the State Implementation Plan (“SIP”) adopted by the State of Illinois and approved by U.S. EPA pursuant to CAA Section 110, 42 U.S.C. § 7410, and Title V of the

Act, 42 U.S.C. § 7661 *et seq.*, and the Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.* arising from the emission of volatile organic material (“VOM”), sometimes referred to as volatile organic compounds (“VOC”), at its Channahon Facility in Channahon, Will County, Illinois.

#### JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to CAA Sections 113(b) and 304(a), 42 U.S.C. §§ 7413(b) and 7604(a), and 28 U.S.C. §§ 1331, 1345, 1355, and 1367.

3. Venue is proper in this district pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b) and 1395(a) because the violations of the Act giving rise to this claim occurred in this district and the defendant resides and transacts business in this district.

#### NOTICES

4. The United States provided notice of the violations alleged herein to the State of Illinois, pursuant to CAA Section 113, 42 U.S.C. § 7413.

5. The 30-day period established in CAA Section 113, 42 U.S.C. § 7413, between the notice provided by the United States and the commencement of this civil action has elapsed.

#### AUTHORITY

6. Authority to bring this action is vested in the United States Attorney General by CAA Section 305, 42 U.S.C. § 7605, and pursuant to 28 U.S.C. §§ 516 and 519.

7. Authority to bring this action is vested in the Attorney General of Illinois by Section 42(e) of the Illinois Environmental Protection Act, 415 ILCS 5/42(e).

DEFENDANT

8. Defendant Crane Composites, Inc. (“Crane Composites”), formerly known as Kemlite Company, Inc., is incorporated in Delaware, and registered to do business in Illinois with its principal place of business at 23525 Eames Street, Channahon, Will County, Illinois. Crane Composites is a “person” as defined in CAA Section 302(e), 42 U.S.C. § 7602(e), and the Illinois Environmental Protection Act, Section 3.315, 415 ILCS 5/3.315 (2006).

STATUTORY AND REGULATORY BACKGROUND

9. The Clean Air Act establishes a regulatory framework designed to protect and enhance the quality of the nation’s air so as to promote the public health and welfare and the productive capacity of its population. 42 U.S.C. § 7401.

National Ambient Air Quality Standards and Attainment Areas

10. Section 109 of the Act, 42 U.S.C. § 7409, requires the Administrator of U.S. EPA to promulgate regulations establishing primary and secondary national ambient air quality standards (“NAAQS”) for certain criteria air pollutants. The primary NAAQS are to be adequate to protect the public health, and the secondary NAAQS are to be adequate to protect the public welfare, from any known or anticipated adverse effects associated with the presence of the air pollutant in the ambient air.

11. In 1971, in accordance with CAA Section 109, 42 U.S.C. § 7409, the Administrator promulgated primary and secondary NAAQS for several pollutants, including ozone. 40 C.F.R. § 50.9; 36 Fed. Reg. 8186 (April 30, 1971).

12. Section 107(d) of the Act, 42 U.S.C. § 7407(d), requires each state to designate those areas within its boundaries where the air quality is better or worse than the NAAQS for

each criteria pollutant, or where the air quality cannot be classified due to insufficient data.

These designations have been approved by U.S. EPA and are located at 40 C.F.R. Part 81. An area that meets the NAAQS for a particular pollutant is classified as an “attainment” area; one that does not is classified as a “nonattainment” area. 42 U.S.C. § 7407(d)(1).

13. In 1990, the portion of Will County in which the Channahon Facility is located was designated a “serious” nonattainment area for ground-level ozone. 55 Fed. Reg. 43126 (Oct. 26, 1990). This area was redesignated a “severe” nonattainment area for ground-level ozone in 2004. 69 Fed. Reg. 23898 (April 30, 2004).

14. Ground-level ozone is formed when VOM reacts with nitrogen oxides in the presence of sunlight. As a precursor to ozone, VOM are regulated pollutants under the ozone NAAQS. 40 C.F.R. Part 58, App. D, § 2.5. Ground-level ozone injures lung tissue, reduces respiratory capability, sensitizes the lungs to other irritants, inhibits the immune system, reduces agricultural crop yield, and damages forests and ecosystems. *See, e.g.*, 65 Fed. Reg. 11525, 11527 (March 3, 2000).

#### State Implementation Plans (SIPs)

15. Section 110 of the Act, 42 U.S.C. § 7410, requires each state to adopt and submit to U.S. EPA for approval a State Implementation Plan (“SIP”) that provides for the implementation, maintenance, and enforcement of the NAAQS. Section 110(a)(2)(A) of the Act, 42 U.S.C. § 7410(a)(2)(A), requires that each SIP include enforceable emission limitations.

16. After such enforceable emission limitations are approved by U.S. EPA, these provisions constitute the state’s “applicable implementation plan,” within the meaning of CAA Sections 113 and 302(q), 42 U.S.C. §§ 7413 and 7602(q), are considered that state’s “SIP

Rules,” and are federally enforceable under CAA Section 113(a) and (b), 42 U.S.C. § 7413(a) and (b).

17. Pursuant to CAA Section 110, 42 U.S.C. § 7410, Illinois adopted and submitted to U.S. EPA for approval various rules for the attainment and maintenance of the NAAQS. U.S. EPA approved the Illinois SIP in 1972. 37 Fed. Reg. 10842, 10862 (May 31, 1972).

18. On September 9, 1994, U.S. EPA approved, as part of the federally enforceable SIP for Illinois, the Chicago Area VOC Rules, Title 35 IAC Part 218 (“Rule 218”). 59 Fed. Reg. 46564; 40 C.F.R. § 52.720(c)(101). Rule 218 applies to all sources located in the Chicago area, including the portion of Will County in which the Channahon Facility is located. 35 IAC § 218.103.

19. The Chicago Area VOC Rules of the Illinois SIP, 35 IAC § 218.301, state:

No person shall cause or allow the discharge of more than 3.6 kg/hr (8 lbs/hr) of organic material into the atmosphere from any emission unit, except as provided in Sections 218.302, 218.303, 218.304 of this Part and the following exception: If no odor nuisance exists the limitation of this Subpart shall apply only to photochemically reactive material.

#### Title V Operating Permit

20. Title V of the Act, 42 U.S.C. §§ 7661-7661f, establishes an operating permit program for certain sources, including “major sources.” A major source is any stationary source that emits or has the potential to emit more than 10 tons per year of any hazardous air pollutant or more than 25 tons per year of any combination of hazardous air pollutants. 42 U.S.C. § 7412(a)(1). A key purpose of Title V is to ensure that all “applicable requirements” for compliance with the Act are collected in one place. 42 U.S.C. § 7661c(a). Pursuant to Title V, U.S. EPA is required to promulgate regulations establishing the minimum elements of state and

local permitting programs and to approve or disapprove each state and local permitting program. 42 U.S.C. § 7661a(b), (d).

21. U.S. EPA granted Illinois final interim approval of its Title V permitting program on March 7, 1997 (60 Fed. Reg. 12478), and granted final approval effective November 30, 2001. 66 Fed. Reg. 62946 ( Nov. 30, 2001).

22. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), has at all relevant times made it unlawful for any person to violate any requirement of a permit issued under Title V or to operate a major source except in compliance with a permit issued by a permitting authority under Title V.

23. Consistent with Section 70.7(b) of the Title V regulation, 40 C.F.R. § 70.7(b), the Illinois SIP prohibits any person from violating any terms or conditions of a Title V permit or to operate a major source except in compliance with a permit issued by the Agency. 415 ILCS § 5/39.5(6)(a).

Enforcement Provisions

24. Sections 113(a)(1) and (3) of the Act, 42 U.S.C. § 7413(a)(1) and (3), provide that the Administrator may bring a civil action whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of: (1) the SIP of any State or any permit issued thereunder; and (2) Title V of the Act, 42 U.S.C. §§ 7661-7661f, or any rule or permit issued thereunder.

25. Section 113(b) of the Act, 42 U.S.C. § 7413(b), authorizes the Administrator to initiate a judicial enforcement action for a permanent or temporary injunction, and/or for a civil

penalty of up to \$27,500 per day for each violation occurring on or after January 31, 1997, and \$32,500 per day for each such violation occurring on or after March 15, 2004.

26. Section 304(a) of the Act, 42 U.S.C. § 7604(a), authorizes any person to commence a civil action for a violation of an emission standard or limitation. The State is a “person” within the meaning of CAA Section 304. CAA Section 302(e); 42 U.S.C. §9602(e).

DEFENDANT’S CHANNAHON FACILITY

27. Defendant owns and/or operates a fiberglass reinforced plastic panel manufacturing plant located at 23525 Eames Street in Channahon, Will County, Illinois (the “Channahon Facility”).

28. The Channahon Facility uses a continuous lamination process to produce fiberglass reinforced plastic panels or sheeting. The process combines raw resin, chopped fiberglass, filler material, pigments and other additives with styrene as a monomer, sometimes in conjunction with methyl methacrylate. Styrene and methyl methacrylate are photochemically reactive volatile organic materials.

29. The production lines for the continuous lamination process at the Channahon Facility are three long panel process lines identified by Defendant as LP-3, LP-6 and LP-7 (the “Process Lines”).

30. Defendant is the “owner or operator” of the three Process Lines within the meaning of 40 C.F.R. § 60.2.

31. Each Process Line is a “stationary source” within the meaning of CAA Section 302(z), 42 U.S.C. § 7602(z).

FIRST CLAIM FOR RELIEF

(CAA/Illinois SIP Violation Against Crane Composites, Inc.)

32. The allegations of Paragraphs 1 through 31 are incorporated herein by reference.

33. Operation of the Process Lines at the Channahon Facility began in or about 1980.

The Process Lines were subject to the Illinois SIP, 35 IAC § 218.301, which prohibits the discharge of more than 8 pounds per hour of VOM.

34. On numerous occasions since 2000, Crane Composites discharged into the atmosphere from each of the Process Lines at the Channahon Facility emissions containing in excess of 8 pounds per hour of VOM, in violation of the applicable Illinois SIP, 35 IAC § 218.301, enforceable through the CAA and the Illinois Environmental Protection Act, Section 9.1(d), 415 ILCS 5/9.1(d).

35. Unless restrained by an Order of the Court, Crane Composites' violations of the CAA and the Illinois SIP, as set forth in this Claim for Relief, are likely to continue.

36. Pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b), for each violation referred to in the preceding paragraph, Crane Composites is subject to injunctive relief and civil penalties of up to \$27,500 per day for each violation occurring on or after January 31, 1997, and \$32,500 per day for each such violation occurring on or after March 15, 2004.

SECOND CLAIM FOR RELIEF

(CAA/Title V Violation Against Crane Composites, Inc.)

37. The allegations of Paragraphs 1 through 31 are incorporated herein by reference.

38. Individually and as a group, the Process Lines are a "major source" and a "major stationary source" within the meaning of CAA Sections 113(b) and 501(2), 42 U.S.C. §§ 7413(b) and 7661a(2).

39. The Illinois Environmental Protection Agency issued a Title V permit for the Channahon Facility on July 28, 2000. Pursuant to this Title V permit, each of Defendant's Process Lines were permitted to emit no more than 7.67 lbs./hr. of VOM and no more than 28.76 tons per year of VOM. In addition, Defendant's Title V permit prohibits Defendant's Process Lines from collectively emitting more than 91.88 tons per year of VOM.

40. On numerous occasions since July 28, 2000, Crane Composites discharged into the atmosphere, from one or more of the Process Lines at the Channahon Facility, emissions containing in excess of 7.67 pounds per hour of VOM or 28.76 tons per year of VOM, or collectively from all of the Process Lines at the Channahon Facility emissions containing in excess of 91.88 tons per year, in violation of its Title V permit, and therefore, in violation of CAA Section 502, 42 U.S.C. § 7661a, the Illinois Environmental Protection Act, Sections 9.1(d) and 39.5, 415 ILCS 5/9.1(d) and 5/39.5, and related Title V provisions.

41. Unless restrained by an Order of the Court, Crane Composites' violations of its Title V permit and provisions, as set forth in this Claim for Relief, are likely to continue.

42. Pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b), for each violation referred to in this Claim for Relief, Crane Composites is subject to injunctive relief and civil penalties of up to \$27,500 per day for each violation occurring on or after January 31, 1997, and \$32,500 per day for each such violation occurring on or after March 15, 2004.

#### PRAYER FOR RELIEF

WHEREFORE, the United States and Illinois respectfully request that this Court:

A. Permanently enjoin Defendant from further violations of the Clean Air Act and applicable requirements established thereunder, including provisions of the Illinois SIP described above;

B. Require Defendant to obtain and comply with all necessary permits and to undertake and complete expeditiously all actions necessary to achieve and maintain compliance with the Clean Air Act and applicable requirements established thereunder, including provisions of the Illinois SIP described above;

C. Assess civil penalties against Defendant for violations of applicable provisions of the Clean Air Act as well as its implementing regulations and permits issued thereunder of up to \$27,500 per day for each violation occurring on or after January 31, 1997, and \$32,500 per day for each such violation occurring on or after March 15, 2004;

D. Enter judgment in favor of Plaintiffs and against Defendant;

E. Award Plaintiffs their costs and disbursements for this action; and

F. Grant Plaintiffs such other relief as the Court may deem just and proper.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA

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